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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
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12 JUDITH ALLEN, *et al.*,

13 Plaintiffs,

14 vs.

15 GIRARDI | KEESE, *et al.*,

16 Defendants.
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Case No.: 14-CV-02721-MWF-FFM

Hon. Fredrick F. Mumm

**PLAINTIFFS' AMENDED
NOTICE OF MOTION AND MOTION
TO COMPEL NET WORTH
DISCOVERY IN CONNECTION
WITH UPCOMING DEPOSITIONS
AND FOR MONETARY SANCTIONS**

**[PLAINTIFFS' DISCOVERY
MOTION NO. 6]**

Hearing Date: April 5, 2016
Hearing Time: 10:00 a.m.
Room: 580, 5th Floor

Complaint Filed: Apr. 9, 2014
FAC Filed: Jan. 23, 2015
Discovery Cutoff: May 27, 2016
Pretrial Conf.: Aug. 29, 2016
Trial Date: Sep. 6, 2016

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on Tuesday, April 5, 2016, 2016, at 10:00 a.m., or as soon thereafter as the matter may be heard, in Courtroom 580, Fifth Floor, 255 East Temple Street, Los Angeles, California 90012, U.S. District Court for the Central District of California, U.S. Magistrate Judge Fredrick F. Mumm presiding, Plaintiffs will, and hereby do, move this Court, pursuant to Federal Rules of Civil Procedure 26, 30 and 37 and this Court's Local Rule 37, for an Order: **(1)** compelling Defendant Girardi | Keese ("GK") to produce a person most knowledgeable to testify concerning its financial transactions with co-defendants Thomas Girardi and James O'Callahan; **(2)** compelling GK to produce documents in its possession, custody and control relating to GK's net worth and financial condition and GK's distributions, loans and other payments to Mr. Girardi and Mr. O'Callahan; and **(3)** compelling Mr. Girardi to produce documents in his possession, custody and control sufficient to show his net worth and financial condition during the relevant time period. Plaintiffs also seek an order requiring Defendants to pay Plaintiffs' reasonable expenses incurred in having to bring this motion, including their attorney's fees, pursuant to Federal Rule of Civil Procedure 37(a)(5)(A).

The discovery at issue is summarized below:

No.	Notice of Deposition of GK – PMK Topics Per Fed. R. Civ. P. 30(b)(6)
53	Details concerning distributions, loans and other payments to Mr. Girardi for 2012, 2013 and 2014.
54	Details concerning distributions, loans and other payments to Mr. O'Callahan for 2012, 2013 and 2014.

No.	Notice of Deposition of GK – Document Requests Per Fed. R. Civ. P. 30(b)(2)
50	Documents stating GK's net worth for year-end 2012, 2013 and 2014.
51	GK's profit and loss statements for 2012, 2013 and 2014.

No.	Notice of Deposition of GK – Document Requests Per Fed. R. Civ. P. 30(b)(2)
52	GK's income and expense statements for 2012, 2013 and 2014.
53	Documents showing GK's accounts payable and receivable for year-end 2012, 2013 and 2014.
54	Documents identifying GK's real property holdings for 2012, 2013 and 2014.
55	Documents identifying GK's personal property purchased for more than \$10,000 for 2012, 2013 and 2014.
56	Documents relating to distributions to Mr. Girardi for 2012, 2013 and 2014.
57	Documents relating to loans to Mr. Girardi for 2012, 2013 and 2014.
58	Documents relating to Mr. Girardi's expenses incurred or paid by GK for 2012, 2013 and 2014.
59	Documents relating to distributions to Mr. O'Callahan for 2012, 2013 and 2014.
60	Documents relating to loans to Mr. O'Callahan for 2012, 2013 and 2014.
61	Documents relating to Mr. O'Callahan's expenses incurred or paid by GK for 2012, 2013 and 2014.

No.	Notice of Deposition of Thomas Girardi – Document Requests Fed. R. Civ. P. 30(b)(2)
1	Documents sufficient to show Mr. Girardi's assets, liabilities and net worth for year-end 2011, 2012, 2013 and 2014.
2	Documents sufficient to show Mr. Girardi's income and expenses for 2011, 2012, 2013 and 2014.
3	Documents sufficient to show Mr. Girardi's income from GK, specifically, for 2011, 2012, 2013 and 2014.

This Motion is made on the following grounds:

- a. The information and documents sought are relevant (i) to Plaintiffs' claims for punitive damages; (ii) to determine the ultimate disposition of the HRT

1 settlement funds; and (iii) to show that Mr. Girardi's significant financial obligations,
 2 exorbitant spending and extravagant lifestyle provided the motivation for him to
 3 misappropriate HRT settlement funds from GK's client trust account. *See* Fed. R.
 4 Civ. P. 26(b)(1), 30(b)(6), 30(b)(2).

5 b. Defendants' objections based on (i) lack of relevance, (ii) privacy,
 6 (iii) California Civil Code section 3295, (iv) "equally available," (v) "unduly broad"
 7 and (vi) "overly burdensome" are without merit.

8 Plaintiffs' Motion was previously set to be heard on January 5, 2016. On
 9 December 22, 2015, the Court ordered the Motion off-calendar without prejudice to
 10 refile, pursuant to a Stipulation by the parties. Dkt. No. 211. The parties
 11 Stipulation provided that the purpose of taking the motion off calendar was "to permit
 12 the parties to focus on settlement," and "if the settlement conference is
 13 unsuccessful, . . . Plaintiff may proceed with the Motion[]." Dkt. No. 210, p. 2. On
 14 March 8, 2016, the parties attended a settlement conference before this Court, but
 15 were unable to reach a settlement. Accordingly, Plaintiffs now wish to proceed with
 16 this Motion.

17 This Motion is based on this Amended Notice of Motion; the previously filed
 18 Joint Stipulation of the parties (Dkt. No. 194-1) (**Exhibit A**) and Declarations of John
 19 Sheehan (Dkt. No. 194-2) (**Exhibit B**), Jerome Friedberg (Dkt. No. 194-3)
 20 (**Exhibit C**) and Phillip Baker (Dkt. No. 194-4) (**Exhibit D**); the pleadings and papers
 21 on file; and such additional evidence and argument as the Court may permit.

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1 As set forth in greater detail in the previously filed Declaration of Jerome
2 Friedberg, this Motion is made only after counsel engaged in unsuccessful meet and
3 confer efforts pursuant to Local Rule 37-1. Dkt. No. 194-3 (Ex. C), ¶¶ 8-14.

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5 Dated: March 10, 2016

Respectfully submitted,

6 **ISAACS | FRIEDBERG LLP**

7 By /s/ Jeffrey B. Isaacs

8 JEFFREY B. ISAACS, ESQ.

9 *Attorneys for Plaintiffs Judith Allen, et al.*